BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 322 19 97

Bill H 125 S _____ Original bill & history ____C

H. Committee on Corrections Select		S. Committee on Finance & Claims	
Hearing Date(s) Jan 22	✓ C	Hearing Date(s) Mar 19	✓ C
Mar 08	✓ C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

HB 123 INTRODUCED BY SIMPKINS *LC0410 DRAFTER: HEFFELFINGER*

PROVIDE FOR A CAPITOL COMPLEX MASTER PLAN ACT
BY REQUEST OF DEPARTMENT OF ADMINISTRATION

12/30	INTRODUCED		
1/06	FIRST READING		
1/06	REFERRED TO STATE ADMINISTRATION		
1/14	HEARING		
1/16	COMMITTEE REPORT—BILL PASSED		
1/20	2ND READING PASSED	82	15
1/21	3RD READING PASSED	87	12
	TRANSMITTED TO SENATE		
1/22	FIRST READING		
1/22	REFERRED TO STATE ADMINISTRATION		
1/31	HEARING		
2/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/03	2ND READING CONCURRED	49	0
3/04	3RD READING CONCURRED	45	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/16	2ND READING AMENDMENTS CONCURRED	94	4
4/16	3RD READING CONCURRED AS AMENDED	80	19
4/20	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 476		
	EFFECTIVE DATE: 10/01/97		

HB 124 INTRODUCED BY KITZENBERG *LC0450 DRAFTER: HEFFELFINGER*

REQUIRE STATE PUBLIC CONSTRUCTION CONTRACTS, PLANS, AND SPECIFICATIONS USING METRIC UNITS TO ALSO PROVIDE ENGLISH UNITS

12/30	INTRODUCED
1/03	FISCAL NOTE REQUESTED
1/06	FIRST READING
1/06	REFERRED TO TRANSPORTATION
1/13	FISCAL NOTE RECEIVED
1/13	FISCAL NOTE PRINTED
1/24	HEARING
2/03	TABLED IN COMMITTEE
2/27	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL
	DIED IN COMMITTEE

HB 125 INTRODUCED BY GRADY *LC0414 DRAFTER: MACMASTER*

REVISE AND CLARIFY INTERMEDIATE SENTENCING OPTIONS
BY REQUEST OF DEPARTMENT OF CORRECTIONS

12/30	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/07	REFERRED TO CORRECTIONS SELECT COMMITTEE		
1/20	FISCAL NOTE RECEIVED		
1/22	HEARING		
1/22	FISCAL NOTE PRINTED		
3/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/12	2ND READING PASSED	85	15
3/13	3RD READING PASSED	88	12

	TRANSMITTED TO SENATE		
3/14	FIRST READING		
3/14	REFERRED TO FINANCE & CLAIMS		
3/19	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/02	2ND READING CONCURRED AS AMENDED	50	0
4/03	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	99	1
4/11	3RD READING CONCURRED AS AMENDED	91	4
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 322		
	EFFECTIVE DATE: 10/01/97		

HB 126 INTRODUCED BY COBB *LC0098 DRAFTER: HEIMAN*

RAISE CIGARETTE TAXES AND TOBACCO PRODUCTS TAXES FOR DEPOSIT IN THE STATE GENERAL FUND

12/30	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO TAXATION		
1/13	FISCAL NOTE RECEIVED		
1/22	HEARING		
2/05	TABLED IN COMMITTEE		
3/25	TAKEN FROM COMMITTEE AND PLACED ON 2ND READING	57	36
3/26	2ND READING DO PASS AS AMENDED MOTION FAILED	42	58
3/27	MOTION FAILED TO RECONSIDER PREVIOUS ACTION	39	59

HB 127 INTRODUCED BY J. JOHNSON *LC0264 DRAFTER: MACMASTER*

ADOPT STANDARDS ESTABLISHING FOR DEATH PENALTY CASES BY THE FEDERAL ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

BY REQUEST OF DEPARTMENT OF JUSTICE

12/30	INTRODUCED
1/06	FIRST READING
1/23	REFERRED TO JUDICIARY
2/05	HEARING
2/05	TABLED IN COMMITTEE
3/28	MISSED DEADLINE FOR 67TH DAY TRANSMITTAL
	DIED IN COMMITTEE

HB 128 INTRODUCED BY SOFT *LC0325 DRAFTER: FOX*

REVISE THE LAW REGULATING DAY CARE

BY REQUEST OF DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES

12/30	INTRODUCED
1/03	FISCAL NOTE REQUESTED
1/06	FIRST READING
1/06	REFERRED TO HUMAN SERVICES & AGING
1/10	HEARING
1/10	FISCAL NOTE RECEIVED
1/11	FISCAL NOTE PRINTED
1/31	COMMITTEE REPORT—BILL PASSED AS AMENDED
2/04	REREFERRED TO HUMAN SERVICES & AGING

HOUSE BILL NO. 125

INTRODUCED BY GRADY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING INTERMEDIATE SENTENCING OPTIONS; REVISING THE HOME ARREST LAW; REVISING THE LAW RELATING TO COMMUNITY CORRECTIONS PROGRAMS AND FACILITIES; AMENDING SECTIONS 46-18-201, 46-18-1001, 46-18-1002, 46-18-1003, 53-1-203, 53-30-302, 53-30-303, 53-30-312, 53-30-313, 53-30-314, 53-30-315, 53-30-321, 53-30-322, AND 53-30-326, MCA; AND REPEALING SECTIONS 46-23-401, 46-23-405, 46-23-411, 46-23-412, 46-23-421, 46-23-422, 46-23-426, 53-30-324, AND 53-30-325, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because 53-1-203 gives the department of corrections authority to adopt administrative rules relating to prerelease centers. The legislature intends the rules to address, at a minimum:

(1) a procedure for notifying residents in an area in which a new prerelease center or expansion of an existing center is contemplated;

(2) a procedure and timetable for public notice, public comment, and a public hearing on a new prerelease center or expansion of an existing center; and

(3) siting criteria to be used to determine the suitability of a specific site for a new prerelease center or expansion of an existing center.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-201, MCA, is amended to read:

"**46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise

provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

(i) jail base release;

(ii) jail time not exceeding 180 days;

(iii) conditions for probation;

(iv) payment of the costs of confinement;

(v) payment of a fine as provided in 46-18-231;

(vi) payment of costs as provided in 46-18-232 and 46-18-233;

(vii) payment of costs of court-appointed counsel as provided in 46-8-113;

(viii) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(ix) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

~~(ix)~~(x) community service;

~~(x)~~(xi) home arrest as provided in Title 46, chapter 18, part 10;

~~(xi)~~(xii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society;

~~(xii)~~(xiii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116; or

~~(xiii)~~(xiv) any combination of the restrictions or conditions in subsections (1)(a)(i) through ~~(1)(a)(xii)~~ (1)(a)(xiii).

(b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable restrictions or conditions may include any of those listed in subsection (1)(a).

(c) impose a fine as provided by law for the offense;

(d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed counsel as provided in 46-8-113;

(e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit the defendant to the department of corrections for a period not to exceed 5 years for placement in an appropriate correctional institution or program;

(f) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321; ~~or~~

(g) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, order the offender to be placed in a prerelease center or prerelease program for a period not to exceed 1 year; or

~~(g)~~(h) impose any combination of subsections (1)(b) through ~~(1)(f)~~ (1)(g).

(2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

(3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony, regardless of whether any other conditions are imposed.

(4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be allowed for jail or home arrest time already served.

(5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23, part 5.

(10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender program.

(11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in ~~the~~ a state prison, including placement of the offender in a community corrections facility or program or a prerelease center or prerelease program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the court subsequently sentences the offender ~~is subsequently sentenced~~ to ~~the~~ a state prison ~~or the women's correctional system~~, the court shall state ~~its~~ the reasons why ~~alternatives~~ it did not select an alternative to imprisonment ~~were not selected~~, based on the criteria contained in 46-18-225.

(12) If a felony sentence includes probation, the department of corrections shall supervise the defendant unless the court specifies otherwise.

46-18-201. (Effective July 1, 1997) Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

(i) jail base release;

(ii) jail time not exceeding 180 days;

(iii) conditions for probation;

(iv) payment of the costs of confinement;

(v) payment of a fine as provided in 46-18-231;

(vi) payment of costs as provided in 46-18-232 and 46-18-233;

(vii) payment of costs of court-appointed counsel as provided in 46-8-113;

(viii) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(ix) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

~~(ix)~~(x) community service;

~~(x)~~(xi) home arrest as provided in Title 46, chapter 18, part 10;

~~(xi)~~(xii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society;

~~(xii)~~(xiii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116; or

~~(xiii)~~(xiv) any combination of the restrictions or conditions in subsections (1)(a)(i) through ~~(1)(a)(xii)~~ (1)(a)(xiii).

(b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable restrictions or conditions may include any of those listed in subsection (1)(a).

(c) impose a fine as provided by law for the offense;

(d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed counsel as provided in 46-8-113;

(e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit the defendant to the department of corrections for a period not to exceed 5 years for placement in an appropriate correctional institution or program;

(f) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321; ~~or~~

(g) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, order the offender to be placed in a prerelease center or prerelease program for a period not to exceed 1 year; or

~~(g)~~(h) impose any combination of subsections (1)(b) through ~~(1)(f)~~ (1)(g).

(2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the vic of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the vic as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to p restitution, then it may impose, in addition to any other sentence, community service under 46-18-24

(3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years a felony, regardless of whether any other conditions are imposed.

(4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the co shall consider any elapsed time and either expressly allow part or all of it as a credit against the sente or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must allowed for jail or home arrest time already served.

(5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 ye of a sentence of imprisonment imposed under the following sections may not be deferred or suspend 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sente of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be defe in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not sentence was imposed, imposition of the sentence was deferred, or execution of the sentence w suspended.

(8) If the victim was less than 16 years old, the imposition or execution of the first 30 days sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be defe or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(9) In imposing a sentence on a defendant convicted of a sexual or violent offense as define 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, Title 46, chapter 23, part 5.

(10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced imprisonment in the state prison shall enroll in and complete the educational phase of the prison's se

offender program.

(11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in the state prison, including placement of the offender in a community corrections facility or program or a prerelease center or prerelease program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the court subsequently sentences the offender ~~is subsequently sentenced~~ to ~~the~~ a state prison ~~or the women's correctional system~~, the court shall state ~~its~~ the reasons why ~~alternatives~~ it did not select an alternative to imprisonment ~~were not selected~~, based on the criteria contained in 46-18-225.

(12) If a felony sentence includes probation, the department of corrections shall supervise the defendant unless the court specifies otherwise.

~~(12)~~(13) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does not apply to a person sentenced under 46-18-219."

Section 2. Section 46-18-1001, MCA, is amended to read:

"46-18-1001. Definitions. As used in this part, the following definitions apply:

(1) (a) "Home" means the temporary or permanent residence of an offender consisting of the actual living area approved by the supervising authority.

(b) When more than one residence or family are located on a single piece of property, the term does not include the residence of any other person who is not part of the social unit formed by the offender's immediate family.

(2) "Home arrest" means the use of a person's home for purposes of confinement and home arrest procedures and conditions imposed under this part. It does not include intensive supervision by the department of corrections.

(3) "Monitoring device" means an electronic device or apparatus ~~that is limited in capability to~~ capable of recording or transmitting information concerning the offender's presence in or absence from the home. The device ~~must be minimally intrusive~~ may include an apparatus for testing the offender's breath for the presence of alcohol. A telephone alone is not a monitoring device.

(4) "Supervising authority" means~~:~~

(a) in the case of an adult felon, the ~~corrections division of the~~ department of corrections;

(b) in the case of an adult misdemeanant, a court-approved entity other than ~~the corrections~~

~~division of~~ the department of corrections; or~~,~~

(c) in the case of a juvenile, the juvenile probation division of the youth court or any other pers or entity appointed by the court.

(5) "Violent felony offense" means deliberate homicide, mitigated deliberate homicide, negli homicide, aggravated assault, negligent vehicular assault, kidnapping, aggravated kidnapping, robb sexual intercourse without consent, sexual abuse of children, arson, aggravated burglary, escape, criminal attempt to commit an enumerated offense, or conviction as a persistent felony offender when offender has a felony conviction for any of the listed offenses within the 5-year period preceding the d of the present conviction."

Section 3. Section 46-18-1002, MCA, is amended to read:

"46-18-1002. Home arrest -- petition -- agreement. (1) An offender may petition a sentenc court for an order directing that all or a portion of a sentence of imprisonment ~~in the county jail or st prison~~ be served under conditions of home arrest. The term of home arrest may not exceed 6 mon Petitions may be considered and ruled upon by the sentencing court prior to and throughout the ter the offender's sentence.

(2) The petition must include:

(a) either a statement by the department of corrections that it has a monitoring device availa for its use on the offender or information from the offender as to a private company that can and implement the home arrest, along with the name and credentials of the company and the type of monito device to be used;

(b) the place of any employment of the offender and the name of the offender's supervisor;

(c) if the offender has been accepted into one, a plan for participation in an educational, treatm or training program;

(d) the source and amount of any income of the offender; and

(e) the address at which the home arrest will occur and a list of any other persons who will re at that address during all or part of the home arrest, their ages, and their relationship to the offender

~~(2)~~(3) The sentencing judge shall ~~study the records of all persons petitioning for home arrest a in his discretion, may:~~

~~(a) refer the case to the appropriate supervising authority for approval and acceptance into~~

~~home arrest program. The supervising authority may accept or reject any referral.~~

~~(b) conduct hearings on the desirability of granting home arrest;~~

~~(c) order a term of home arrest in lieu of a sentence of imprisonment in the county jail or state prison. The time actually spent in home arrest pursuant to this section may not exceed 6 months or the maximum term of imprisonment imposed, whichever is shorter.~~

~~(d) issue a warrant for a person when there is reason to believe the person has violated the conditions of home arrest, conduct hearings on the matter, and order imprisonment in the county jail or state prison upon proof of violation; and~~

~~(e) grant final discharge from arrest.~~

~~(3) A home arrestee shall execute a written agreement with the court setting forth all the conditions of home arrest. The order of home arrest must incorporate that agreement and must order compliance with its terms. The order and agreement must be transmitted to the supervising authority and to the appropriate jail or prison official.~~

~~(4) Time spent in home arrest must be credited against the maximum term of imprisonment imposed for the offender pursuant to law.~~ refer the petition to the department of corrections. The department shall review the petition and accept or reject the offender for home arrest. If the offender is rejected, the sentencing judge shall dismiss the petition. If the offender is accepted, the sentencing judge may conduct a hearing on the petition and grant or deny the petition. An order for home arrest must incorporate the home arrest plan, with any modifications by the court, and require compliance with the plan. The clerk of court shall give the county attorney a copy of the order.

~~(5)~~(4) ~~Home arrest must be under the supervision of the supervising authority.~~ A home arrestee is subject to the decisions and applicable rules of the supervising authority during the period of supervision. ~~Fees for supervision or equipment usage must be paid directly to the clerk of the sentencing court and must be distributed by the clerk to the supervising authority.~~

(5) The offender shall file with the court the written and notarized consent to the home arrest signed by each adult who will reside with the offender during all or part of the home arrest."

Section 4. Section 46-18-1003, MCA, is amended to read:

"**46-18-1003. Home arrest -- conditions -- fees -- consent of cohabitors.** (1) A home arrestee must be confined to ~~his~~ the arrestee's home under conditions imposed by the sentencing court, which may

include but are not limited to the following:

(a) The home arrestee must be confined to ~~his~~ the arrestee's home at all times except when:

(i) working at approved employment or traveling directly to and from employment;

(ii) seeking employment;

(iii) undergoing medical, psychiatric, or mental health treatment or participating in an approv counseling or aftercare program;

(iv) attending an ~~approved~~ educational institution or program approved by the supervising authori

(v) attending a regularly scheduled religious service at a place of worship;

(vi) participating in an approved community service program; or

(vii) conforming to a schedule prepared by the supervising authority, specifically setting forth times when ~~he~~ the arrestee may be absent from the home and the locations where ~~he~~ the arrestee may during those times.

~~(b) The home arrestee may not commit another offense during the period of home arrest.~~

~~(c)~~(b) The home arrestee may not change the place of home arrest or the schedule without p approval of the supervising authority.

~~(d)~~(c) The home arrestee shall maintain a telephone ~~or other approved~~ in the home and the orde monitoring device ~~in the home or~~ on the arrestee's person at all times.

~~(e)~~(d) Conditions set by the court or the supervising authority may include:

(i) restitution;

(ii) supervision fees under 7-32-2245, 46-18-702, ~~or~~ 46-18-703, or 46-23-1031;

(iii) any of the conditions imposed on persons on probation or conditional discharge un 46-23-1011 or 46-23-1021.

(2) ~~A written and notarized consent agreement must be filed with the court by every adult w will share the offender's home during the term of home arrest.~~ An arrest warrant may be issued if supervising authority has reason to believe that the home arrestee has violated a condition of the ho arrest. Upon arrest, the supervising authority shall notify the sentencing court and give the court a writ report on the violation. The court shall conduct a hearing and, if the violation is established, may rev the home arrest and require the home arrestee to serve all or a part of the sentence. If imposition sentence was suspended, the court may impose any sentence that could have been originally impos Time spent under home arrest must be credited against any sentence to be served.

~~(3) Violation of the provisions of any condition of home arrest may subject the home arrestee to prosecution under 45-7-306.~~"

Section 5. Section 53-1-203, MCA, is amended to read:

"**53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

(a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529, rules necessary for the siting, establishment, and expansion of prerelease centers, and rules for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law. ~~However, rules adopted by the department may not amend or alter the statutory powers and duties of the state board of pardons and parole.~~

(b) subject to the functions of the department of administration, lease or purchase lands for use by ~~institutions~~ correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all ~~institutions~~ correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in ~~the institutions~~ correctional facilities;

(c) contract with private, nonprofit Montana corporations to establish and maintain ~~community-based~~ prerelease centers for purposes of preparing inmates of ~~the Montana~~ a state prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs~~, including the supervised release program provided for in Title 46, chapter 23, part~~ 4. This subsection does not affect the department's authority to operate and maintain ~~community-based~~ prerelease centers.

(d) utilize the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of ~~institutions~~ corrections, including programs and facilities for the ~~diagnosis, treatment, care, and aftercare~~ custody, supervision, treatment, and skill development of persons placed in ~~institutions~~ correctional facilities or

programs;

(f) encourage the establishment of programs at the local and ~~institutional~~ state level for rehabilitation and education of ~~adult~~ felony offenders;

(g) administer all state and federal funds allocated to the department for youth in need supervision and delinquent youth, as defined in 41-5-103;

(h) collect and disseminate information relating to youth in need of supervision and delinqu youth;

(i) maintain adequate data on placements that it funds in order to keep the legislature prope informed of the specific information, by category, related to youth in need of supervision and delinqu youth in out-of-home care facilities;

(j) provide funding for and place youth who are alleged or adjudicated to be delinquent or in ne of supervision and who are referred or committed to the department;

(k) administer youth correctional facilities;

(l) provide supervision, care, and control of youth released from a state youth correctional facili and

(m) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for children in need of temporary protection or correctional services; and

(ii) coordinate and apply the principles of modern ~~institutional~~ correctional administration to t ~~institutions in~~ facilities and programs administered by the department.

(2) The department and a private, nonprofit Montana corporation may not enter into a contra under subsection (1)(c) for a period that exceeds 10 years. The provisions of 18-3-104 and 18-4-313 th limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

(3) The department of corrections may enter into contracts with nonprofit corporations associations or private organizations to provide substitute care for youth in need of supervision a delinquent youth in youth care facilities."

Section 6. Section 53-30-302, MCA, is amended to read:

"53-30-302. Purpose. It is the purpose of this part to:

(1) encourage the development of community corrections facilities and programs by units of lo government, tribal governments, and nongovernmental agencies;

(2) reduce court commitments to the state ~~penitentiary~~ prisons through diversion of ~~low-risk, nonviolent felony~~ offenders determined appropriate by the community corrections board to community corrections facilities and programs;

(3) reduce the use of jail space for offenders who need a structured environment, treatment, counseling, and supervision but who may not require incarceration;

(4) provide a local facility for employed offenders so that they may maintain their employment under a structured environment and receive treatment, counseling, and supervision;

~~(3)~~(5) provide a procedure by which units of local government, tribal governments, and nongovernmental agencies may provide corrections services to the sentencing courts; and

~~(4)~~(6) include citizen participation in the policymaking and program planning related to community corrections facilities and programs through the formation of local community corrections boards."

Section 7. Section 53-30-303, MCA, is amended to read:

"**53-30-303. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Community corrections board" means a community corrections board as provided in 53-30-312.

(2) "Community corrections facility or program" means a community-based or community-oriented facility or program, other than a jail, that:

(a) is established by a local or tribal government and operated by a unit of local government, a tribal government, or a nongovernmental agency; and

(b) provides programs and services to aid offenders in:

(i) obtaining and holding regular employment;

(ii) enrolling in and maintaining academic courses;

(iii) participating in vocational training programs;

(iv) utilizing the resources of the community to meet their personal and family needs;

(v) obtaining the benefits of specialized treatment services that exist within the community; and

(vi) paying restitution or performing community restitution to crime victims.

~~(3) "Crime of violence" means:~~

~~(a) an offense in which a person uses or possesses and threatens the use of a deadly weapon~~

~~during the commission or attempted commission of an offense, including felony assault, kidnap~~
~~aggravated kidnapping, robbery, arson, burglary, aggravated burglary, escape, or intimidation;~~

~~(b) an offense, other than an offense in which negligence is an element of the offense, in w~~
~~the person causes serious bodily injury or death to a person other than the person committing the off~~
~~during the commission or attempted commission of an offense; or~~

~~(c) any sexual offense in which the offender causes bodily injury to the victim or uses thr~~
~~intimidation, or force against the victim.~~

~~(4)~~(3) "Department" means the department of corrections created in 2-15-2301.

~~(5)~~(4) "Nongovernmental agency" means a person, private, nonprofit agency, corporat
association, labor organization, or other nongovernmental entity.

~~(6) "Nonviolent felony offender" means a person who has committed a felony other than a cr~~
~~of violence.~~

~~(7)~~(5) "Offender" means a person who has entered a plea of guilty or has been convicted
~~felony~~ criminal offense. ~~The term does not include a person who has committed a crime of violence.~~

~~(8)~~(6) "Tribal government" means a federally recognized Indian tribe within the state of Mont

~~(9)~~(7) "Unit of local government" means a county, city, town, or city-county consolida
government."

Section 8. Section 53-30-312, MCA, is amended to read:

"53-30-312. Creation of community corrections boards -- membership -- appointment -- term
compensation. (1) A unit of local government, the governing bodies of two or more units of l
government, or a tribal government may establish a community corrections board.

(2) A community corrections board consists of ~~nine~~ three to seven members, must, when poss
be gender-balanced and have racial parity, and must ~~be appointed as follows~~ include:

(a) one local law enforcement officer;

~~(b) one county attorney;~~

~~(c) one district court judge;~~

~~(d)~~(b) one probation and parole officer; and

~~(e) one local private employer or representative of the department of labor and industry;~~

~~(f) one mental health professional;~~

~~(g) one person representing local or tribal drug and alcohol treatment programs; and~~

~~(h)~~(c) ~~two members~~ one member of the public.

(3) Members of a community corrections board must be ~~nominated by representatives of units of local government or a tribal government and~~ appointed by the ~~district court judges~~ chief executive officer of the unit of local government or the tribal ~~judges~~ government in the judicial district in which community corrections facilities or programs are established.

(4) Members of a community corrections board shall serve for a term of 4 years.

(5) Members of a community corrections board shall serve without compensation except as otherwise decided by the units of local government or a tribal government."

Section 9. Section 53-30-313, MCA, is amended to read:

"**53-30-313. Powers and duties of community corrections boards.** (1) A community corrections board may establish and enforce standards for:

(a) the operation of community corrections facilities and programs operated by the unit of local government or a tribal government served by the community corrections board; and

(b) the conduct of offenders placed in local community corrections facilities and programs.

(2) The community corrections board, together with ~~the department and~~ the judicial district, shall establish procedures for screening offenders who are to be placed in the community corrections facility or program. The screening must take into account the aptitude, attitude, and social and occupational skills of the offender and the risk of harm the offender may present to ~~himself~~ the offender and others.

(3) A community corrections board may accept, reject, or reject after acceptance the placement of any offender in the community corrections facility or program. If an offender is rejected by the community corrections board after initial acceptance, the ~~offender must be remanded to the custody of the~~ sheriff of the county in which the facility or program is located must take custody of the offender. The community corrections board shall notify in writing the sentencing judge who, after considering the board's reasons for rejection, shall appropriately modify the sentencing order."

Section 10. Section 53-30-314, MCA, is amended to read:

"**53-30-314. Community corrections facilities and programs operated by tribal governments.** (1) A tribal government may establish, maintain, and operate a community corrections facility or program to

serve the needs of offenders who are sentenced to the facility or program by a judge as provided 53-30-321.

~~(2) A tribal government may enter into an agreement with the department, pursuant to Title chapter 11, part 1, for the purpose of providing community corrections facilities or programs for offend The agreement must provide for strict accountability procedures and practices for the conduct supervision of offenders assigned or sentenced to a facility or program operated by a tribal governme~~

~~(3)~~(2) A tribal government operating a community corrections facility or program may acc reject, or reject after acceptance the placement of any offender in the facility or program pursuant to agreement with a unit of local government, a nongovernmental agency, or a judicial district. If an offe is rejected by the tribal government after initial appearance and the offender is a court referral, the ~~offen must be remanded to the custody of the~~ sheriff of the county in which the facility or program is loca must take custody of the offender. The tribal government shall notify in writing the sentencing judge w after considering the tribal government's reasons for rejection, shall appropriately modify the senten order."

Section 11. Section 53-30-315, MCA, is amended to read:

"53-30-315. Community corrections facilities and programs operated by nongovernme agencies. (1) Except as provided in subsection (2), a nongovernmental agency may establish, maintain, operate a community corrections facility or program to serve the needs of offenders who are sentence the facility or program by a judge as provided in 53-30-321.

(2) A nongovernmental agency may not establish a community corrections facility or prog unless approved by the local community corrections board in a local government or tribal government has established a community corrections board.

~~(3) A nongovernmental agency may enter into a contract or agreement with the department for purpose of providing community corrections facilities or programs for offenders. The contract or agreem must provide for strict accountability procedures and practices for the conduct and supervision of offend assigned or sentenced to a facility or program operated by a nongovernmental agency.~~

~~(4)~~(3) A nongovernmental agency operating a community corrections facility or program accept, reject, or reject after acceptance the placement of any offender in the facility or program purs to a contract or agreement with a unit of local government, a tribal government, or a judicial district.

offender is rejected by the nongovernmental agency after initial acceptance and the offender is a court referral, the ~~offender must be remanded to the custody of the~~ sheriff of the county in which the facility or program is located must take custody of the offender. The nongovernmental agency shall notify in writing the sentencing judge who, after considering the agency's reasons for rejection, shall appropriately modify the sentencing order."

Section 12. Section 53-30-321, MCA, is amended to read:

"**53-30-321. Authority of judge to utilize community corrections facilities or programs ~~--procedure~~ -- restrictions.** (1) Subject to the restrictions contained in subsection ~~(3)~~ (2), a judge may order placement of ~~a nonviolent felony~~ an offender in a community corrections facility or program operated by a unit of local government, a tribal government, or a nongovernmental agency. ~~If a judge orders placement of an offender in a community corrections facility or program, the judge shall indicate in the sentencing order that the offender would have been sentenced to prison if the community corrections facility or program had not been available.~~

~~(2) Placement of an offender in a community corrections facility or program may be ordered only if:~~

~~(a) the community corrections facility or program is operated by a unit of local government, a tribal government, or a nongovernmental agency that has entered into a contract or agreement with the department to provide community corrections services for offenders; and~~

~~(b) funding for the placement is available.~~

~~(3)~~(2) A judge may not order placement of an offender in a residential community corrections facility or program for a period exceeding 1 year. After completing the residential community corrections portion of ~~his~~ a sentence, an offender shall serve the remainder of ~~his~~ the sentence under normal probation supervision, if applicable.

~~(4)~~(3) An offender is not eligible for parole while serving a sentence in a community corrections facility or program.

~~(5)~~(4) The probation and parole officers for the judicial district shall include in their presentence report to the sentencing judge recommendations for utilization of a community correctional facility or program that has been approved for use by the judicial district."

Section 13. Section 53-30-322, MCA, is amended to read:

"**53-30-322. Powers and responsibilities of department. ~~—rulemaking authority.~~** The departm~~ shall~~ may:

(1) ~~with the active and full participation of the~~ upon the request of a local community correcti board, ~~establish minimum standards for the operation~~ provide assistance in the planning of commu corrections facilities and programs ~~operated by a unit of local government, a tribal government, o nongovernmental agency that has entered into a contract or agreement with the department to pro services for offenders~~; and

(2) ~~review and evaluate all community corrections facilities and programs established under part, subject to the requirements established in section 14, Chapter 554, Laws of 1991~~ contract wi community corrections facility or program for the provision of services for offenders under the custod the department. The contract must address facility or program review and evaluation, accounting reporting standards, and reimbursement of the facility or program~~;~~.

~~(3) prescribe accounting and reporting standards for all units of local government, t governments, and nongovernmental agencies that have entered into a contract or agreement with department;~~

~~(4) reimburse units of local government, tribal governments, or nongovernmental agencies community correctional services at a rate to be negotiated by the department;~~

~~(5) adopt rules necessary to carry out the provisions of this part.~~"

Section 14. Section 53-30-326, MCA, is amended to read:

"**53-30-326. Escape from custody.** An offender is guilty of escape ~~from official detention~~ and s be punished as provided in 45-7-306 if, without proper authorization, ~~he~~ the offender:

(1) fails to remain within the extended limits of ~~his~~ the offender's confinement or fails to re within the time specified to a community corrections facility or program to which ~~he~~ the offender has b assigned, sentenced, or transferred; or

(2) leaves ~~his~~ the offender's place of employment or neglects or fails to return to the commu corrections facility or program after being specifically ordered to do so."

NEW SECTION. **Section 15. Repealer.** Sections 46-23-401, 46-23-405, 46-23-411, 46-23-

46-23-421, 46-23-422, 46-23-426, 53-30-324, and 53-30-325, MCA, are repealed.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0125, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
A bill for an act revising and clarifying intermediate sentencing options; revising the home arrest law; revising the law related to community corrections programs and facilities.

ASSUMPTIONS:
1. This legislation would allow district judges to order offenders with deferred or suspended sentences to be placed in a pre-release center or program.
2. This legislation clarifies the types of offenders eligible for pre-release placement.
3. This legislation clarifies the definition of community correctional facility.

FISCAL IMPACT:
Department of Corrections (DOC):
The DOC is unable to calculate a fiscal impact. More offenders will be sentenced to pre-release programs and placed under house arrest. The department believes that in the long-term, this legislation should have a positive fiscal impact.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
As more offenders are diverted to house arrest and more pre-release centers are opened, the costs of care and custody will be lower than the per day prison costs which would otherwise be expended.

Dave Lewis 1-18-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

EDWARD GRADY, PRIMARY SPONSOR DATE

Fiscal Note for HB0125, as introduced

HB 125

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON CORRECTIONS

Call to Order: By CHAIRMAN BERGSAGEL, on January 22, 1997, at 3:06 p.m., in Room 325.

ROLL CALL

Members Present:
Rep. Ernest Bergsagel, Chairman (R)
Rep. William T. "Red" Menahan, Vice Chairman (D)
Rep. Gary Feland (R)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Daniel W. McGee (R)
Rep. Steve Vick (R)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Services Division
Mike Wingard, Legislative Audit Division
Skip Culver, Legislative Fiscal Division
Meg Angell, Committee Secretary

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 125 (1/15/97)
Executive Action: None

HEARING ON HB 125

Sponsor: REP. ED GRADY, HD 55
{Tape: 1; Side: A; Approx. Time Count: .8; Comments: Rep. Grady introduced the bill.}

Proponents:

MIKE FERRITER, Department of Corrections **EXHIBIT 1**
{Tape: 1; Side: A; Approx. Time Count: 6.1; Comments: None.}

SUE WILKINS, Missoula Correctional Services, Inc.
{Tape: 1; Side: A; Approx. Time Count: 10.5; Comments: Suggested amendments; no written copy.}

Opponents:

LARRY BROWN, 6260 Head Drive, Helena
{Tape: 1; Side: A; Approx. Time Count: 15.7; Comments: No written testimony.}

Questions From Committee Members and Responses:

REP. DIANA WYATT
{Tape: 1; Side: A; Approx. Time Count: 21.5; Comments: Rep. Wyatt questioned Rep. Grady and Mr. Ferriter.}

REP. "RED" MENAHAN
{Tape: 1; Side: A; Approx. Time Count: 24.3; Comments: Rep. Menahan questioned Mr. Ferriter.}

CHAIRMAN ERNEST BERGSAGEL
{Tape: 1; Side: A; Approx. Time Count: 27.5; Comments: Chairman Bergsagel questioned Mr. Ferriter.}

REP. ROYAL JOHNSON
{Tape: 1; Side: A; Approx. Time Count: 28.3; Comments: Rep. R. Johnson questioned Mr. Ferriter.}

REP. DIANA WYATT
{Tape: 1; Side: A; Approx. Time Count: 32.3; Comments: Rep. Wyatt questioned Mr. Ferriter.}

Closing by Sponsor: **REP. ED GRADY**
{Tape: 1; Side: A; Approx. Time Count: 33.5; Comments: Closing remarks.}

MONTANA JOB TRAINING PARTNERSHIP (JTPA) PRESENTATION

CHAIRMAN ERNEST BERGSAGEL
{Tape: 1; Side: A; Approx. Time Count: 35.3; Comments: Introduction of JTPA presentation.}

SUE MORA, JTPA **EXHIBIT 2**
{Tape: 1; Side: A; Approx. Time Count: 36.5; Comments: Presentation continued Tape 1; Side B.}

QUESTIONS FROM COMMITTEE MEMBERS AND RESPONSES:

CHAIRMAN ERNEST BERGSAGEL
{Tape: 1; Side: B; Approx. Time Count: 6.0; Comments: Chairman Bergsagel questioned Ms. Mora and Pam Higgins (Lewistown Human Resource Development Council).}

CHAIRMAN ERNEST BERGSAGEL
{Tape: 1; Side: B; Approx. Time Count: 14.0; Comments: Beginning of questions re: Adult program. Chairman Bergsagel questioned Ms. Higgins.}

REP. MATT McCANN
{Tape: 1; Side: B; Approx. Time Count: 16.6; Comments: Rep. McCann questioned Ms. Mora.}

CHAIRMAN BERGSAGEL
{Tape: 1; Side: B; Approx. Time Count: 20.8; Comments: Chairman Bergsagel questioned Ms. Mora.}

BREAK

RIMROCK FOUNDATION PRESENTATION

MONA SUMNER, Rimrock Foundation, 1231 N. 29th Street, Billings, MT 59107 (248-3175) **EXHIBIT 3**
{Tape: 1; Side: B; Approx. Time Count: 24.2; Comments: None.}

CAROL PORTO, DWI Services, Inc., Baltimore, MD
{Tape: 1; Side: B; Approx. Time Count: 29.9; Comments: Slide Presentation; presentation continued on Tape 2; Side A.}

QUESTIONS FROM COMMITTEE MEMBERS AND RESPONSES:

REP. "RED" MENAHAN
{Tape: 2; Side: A; Approx. Time Count: 13.2; Comments: Rep. Menahan questioned Ms. Porto.}

REP. DAN McGEE
{Tape: 2; Side: A; Approx. Time Count: 15.5; Comments: Rep. McGee questioned Ms. Porto and Ms. Sumner.}

CHAIRMAN ERNEST BERGSAGEL
{Tape: 2; Side: A; Approx. Time Count: 18.9; Comments: Chairman Bergsagel questioned Ms. Porto.}

REP. DAN McGEE
{Tape: 2; Side: A; Approx. Time Count: 20.8; Comments: Rep. McGee questioned Ms. Sumner.}

REP. "RED" MENAHAN
{Tape: 2; Side: ; Approx. Time Count: 22.5; Comments: Rep. Menahan questioned Ms. Porto.}

REP. BETTY LOU KASTEN
{Tape: 2; Side: A; Approx. Time Count: 25.2; Comments: Rep. kasten questioned Ms. Porto and Ms. Sumner.}

REP. GARY FELAND
{Tape: 2; Side: A; Approx. Time Count: 27.4; Comments: Rep. Feland questioned Ms. Sumner.}

REP. "RED" MENAHAN
{Tape: 2; Side: A; Approx. Time Count: 30.2; Comments: Rep. Menahan questioned Ms. Sumner.}

REP. STEVE VICK
{Tape: 2; Side: A; Approx. Time Count: 32.6; Comments: Rep. Vick questioned Ms. Porto.}

REP. DIANA WYATT
{Tape: 1; Side: A; Approx. Time Count: 35.1; Comments: Rep. Wyatt questioned Ms. Porto.}

REP. DAN McGEE
{Tape: 2; Side: A; Approx. Time Count: 37.9; Comments: Rep. McGee questioned Ms. Porto.}

CHAIRMAN ERNEST BERGSAGEL
{Tape: 2; Side: A; Approx. Time Count: 38.6; Comments: Chairman Bergsagel questioned Mr. Dave Armstrong (Alternatives, Inc., Billings, MT.}

REP. "RED" MENAHAN
{Tape: 2; Side: A; Approx. Time Count: 39.9; Comments: Rep. Menahan questioned Mr. Armstrong.}

CHAIRMAN ERNEST BERGSAGEL
{Tape: 2; Side: A; Approx. Time Count: 42.0; Comments: Closing remarks.}

DEPARTMENT OF CORRECTIONS
POLICIES AND PROCEDURES

DRAFT

EXHIBIT 1
DATE 1/22/97
HB 125

Policy No.: DOC 1.1.11	Subject: SITING OF COMMUNITY-BASED FACILITIES
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 10
Section 1: General Administration	Revision Date:
Signature:	Effective Date:

I. POLICY:

It is the policy of the Department of Corrections to establish community support when siting a community-based facility by developing procedures which take into consideration the needs and concerns of the community.

II. AUTHORITY:

53-1-203, MCA. Powers and Duties of the Department

III. DEFINITIONS:

Community-based facility means a community-based adult or juvenile residential program which offers the offender room and board, supervision, counseling and treatment such as a Pre-Release Center or a Juvenile Transition Center.

Department, as defined in this policy, means the Community Corrections Division of the Department of Corrections.

IV. PROCEDURES:

A. Introduction:

1. Community-based facilities function as components of the Montana correctional system and are typically located in the major population areas of the state. These programs are designed to accomplish the following:

- Provide an alternative to the direct release of offenders from Montana correctional facilities,
- Allow offenders the chance to adjust to the community in a structured setting.

2. Community-based facilities also provide community transitional services in lieu of prison for adult male and female offenders who:
   - have been committed to the custody of the Department of Corrections
   - are approaching release from prison
   - have been placed on probation, but require more structured supervision, training and counseling, or
   - are parole violators requiring less restriction.

B. Preliminary Fact Finding

1. Before proceeding with plans to site a community-based facility, the Department must develop written rationale for selecting a community, including demographic and statistical data that supports the need for a facility in the proposed locality. Initial contact should be with key officials in the proposed area to discuss the potential of the proposed siting.

2. If there has been a preliminary determination that there is a need for a program in a community, the following officials, and others to be identified, must be contacted to assess their interest in the proposed facility:

- local Legislators	- Mayor
- local Law Enforcement	- District Judge
- County Commissioners	- City Commissioners
- Chief Public Defender	- County Attorney
- Community Corrections Board, if applicable	-others to be identified
- local DOC Advisory Council members	

3. If there is a determination that local officials are interested in a community-based facility, the Community Corrections Division Administrator will inform the media of the proposed interest. The media should receive the following information:
   a. Rationale for considering this geographic area
   b. Statistics that demonstrate the need for a facility in the proposed locality
   c. The role of the community in the process
   d. Proposed plan of action.

4. The Department will meet with city officials and county commissioners to assess their interest in forming a working committee to secure community support.

C. **Development of a Formal Siting Program**

If city and county officials support a working committee, a working group will be established. Committee members should include local citizens appointed by county and/or city commissioners, Community Corrections Board members, if applicable, in addition to other local officials. The Committee should be comprised of no more than 10-15 members.

A formal siting program will be developed by the Committee, with assistance from the Department. Timelines for completion of the siting program and tasks involved should be established and mutually agreed upon by the Committee and the Department. The role of the Committee, with support from the Department, should be as follows:

1. **Assessing and Procuring Community Support.** The Committee should schedule a minimum of three public meetings to:
   a. **First meeting** - Present the proposal to the public and explore potential siting criteria.
   b. **Second meeting** - Solicit additional feedback from local citizens and officials.

c. **Third meeting** - Discuss the formal siting criteria and the Committee's decision on the proposed site, and if approved, explain the Request for Qualifications (RFQ) and/or Request for Proposals (RFP).

2. **Informing the Community**. A critical component of any siting effort is to dispel misconceptions about Community Corrections programs and the offenders they serve. It is important that the Committee and the Community Corrections Division help local decision makers and citizens to understand that community corrections programs help communities by reducing many of the costly problems associated with offender crimes and that the programs enable offenders to return to productive lives. This may be accomplished via public information meetings and articles submitted to the local media.

3. **Selecting a Site**. One of the most important decisions the Committee and Department will make is determining where to site a Pre-Release Center. For that reason, the Committee and the Department must consider the following formal siting criteria to promote public participation and respond to the public's concerns:

a. **Determination of level of support from local government authorities.**

1) The Department will contract with a professional consulting firm to survey the following:

- local law enforcement
- Mayor/CEO
- County Attorney
- Chief Public Defender
- District Court Judges
- County Commissioners
- City Council, if applicable
- local DOC Advisory Council members
- State Legislators who represent any portion of the county of the proposed site

2) The survey will utilize an appropriate method of measurement and must include, at a minimum, the following questions:

   a) Do you believe there should be a Community Corrections Program in _____County?

   b) Do you believe the Community Corrections Program needs to be within the city limits?

3) All respondents will be provided with an outline of the goals of the survey in order to assist them to gain an understanding of the level of support for a Community Corrections Program in the community.

4) **Standard to meet criteria:** Should have the support of a majority of the County Commissioners and the City Council, a majority of State Senators and Representatives who serve the district in which the proposed site is located, and a majority of the other public officials mentioned above.

b. Determination of level of support of area residents.

1) A minimum of 200 - 500 residents of the community/area, or a number to be determined by the consulting firm, will be surveyed. The Department will contract with a professional consulting firm to survey adults who have resided for a minimum of one year within a four-mile radius of the proposed site.

2) The survey will utilize an appropriate method of measurement. The survey must include, but will not be limited to, the following question:

   (a) Would you find it acceptable to site a Community Corrections Program at _____ site?

3) All respondents will be provided with an explanation of the survey goals.

4) **Standard to meet criteria:** Should have the support of a simple majority of the respondents.

c. **Emergency medical and fire protection.** Twenty-four hour emergency medical and fire protection services must be available. Fire protection must be available by a professional fire protection service. Appropriate fire protection services and response time will be determined by the State Fire Marshall or the authority having jurisdiction. Medical transportation services must be available from a licensed ambulance service.

d. **Law enforcement and security.** The site must be accessible to a certified law enforcement agency capable of emergency response within fifteen (15) minutes. An acceptable security plan must be in place to include specific procedures that describe:

1) A back-up plan in the event law enforcement response may be delayed
2) Conducting searches of residents and all areas of the facility in order to control contraband and locate missing or stolen property
3) The prevention, detection and pursuit of absconders
4) The movement of residents into and out of the facility
5) A system of accounting for the residents' whereabouts at all times
6) Transportation of residents being returned to custody

e. **Zoning, state ordinances and utilities.** The site must comply with all applicable laws, codes, ordinances and acts.

1) The following must be strictly adhered to:
   a) Zoning: must have approval of local, county and/or state zoning officials.
   b) Building: must meet codes for fire, safety, electrical, and plumbing.
   c) Environmental: must comply with all environmental laws and regulations.

d) Disabilities: must comply with Americans with Disabilities Act.

e) Sanitation and water: must comply with all laws and regulations including EPA standards. (Must show compliance for proposed number of beds.)

f) Flood plain and floodways: must have proof of compliance with all requirements of Title 76, Chapter 5, MCA, including Part 4, Use of Flood Plains and Floodways.

2) The contractor must submit documentation of compliance with all of the above, or a written plan naming deficiencies and a plan for correcting them must be approved by the Department.

3) The site plan must show access to reliable utilities.

a) Contractor must submit documentation that the contemplated use of utilities will not negatively impact surrounding community.

b) Contractor must submit a plan for alternative phone and power in case of prolonged outages.

f. Transportation

1) Contractor must submit a written plan for transportation of offenders to and from:

a) Treatment: mental health and chemical dependency

b) Education: basic education, Vo-Tech, College

c) Jobs

d) Commercial Ground Transportation

e) Miscellaneous: shopping, medical and dental, passes and recreation.

2) The Contractor's transportation plan must include assurances that:

a) If offenders are walking, they walk not more than one mile each way.

b) If offenders are riding bikes, not more than one mile on unpaved roadway.

c) There is some measure of responsibility placed upon the offenders for their transportation needs.

d) There is evidence of adequate snow removal plan.

3) The contractor must submit a plan for mitigating traffic problems as recommended by the City/County.

g. **Availability to services.** There must be available within a 20-mile radius:

1) Appropriate mental health and chemical dependency services.

2) Adequate job opportunities for the resident population as determined by the State Employment Service and/or the Department of Commerce.

3) Opportunities for basic education, GED, technical training and college courses.

4) Opportunities for volunteer and public service.

h. **Property values and tax base**

1) The potential impact on property values and tax base will be assessed in the local area of the proposed site. To accomplish this, the Department will contract with a certified property appraisal firm to determine the following:

a) The total annual tax loss to the county or state if the proposed property site is converted to a private, non-profit Community Corrections Program.

b) What effect, if any, the tax loss will have on property owners in the immediate area, County, and the State of Montana.

c) The potential impact on property values within the local area of the proposed site if the property is occupied by a Community Corrections Program.

d) The impact (temporary and long-term) on property values in areas surrounding existing Community Corrections Programs.

The appraisal firm must operate its business in a community located outside of the proposed community.

2) Standard: To meet this criteria, there should be no loss in property value directly attributable to a Community Corrections Program in the area as determined by the appraiser. If the appraiser determines there will be property value loss, a mitigation plan will be developed jointly by the Contractor and the Department.

D. Requests For Qualifications

1. When community support is secured and a proposed site is selected by the working committee, the Department may issue a Request for Qualifications (RFQ) requesting respondents to describe their qualifications and explain how they have provided similar services under similar conditions in the past. The RFQ must state:
   a. The need for service
   b. The description of the service to be provided
   c. The amount of money available for the contract.

2. If an RFQ is issued, the Department will select candidates from among those that meet the established criteria for experience, skills, capacity and location.

E. Requests for Proposals

1. The Department must issue a Request for Proposals (RFP) to prospective contractors which will identify:
   a. The need for service

b. Types and quality of services sought
c. Activities to be performed
d. Target population to be served
e. Acceptable cost range
f. Administrative requirements
g. Procedures and time frames for proposal submission and review
h. Process for appeals

2. The RFP process will begin after community support has been secured, the proposed site has been selected, and the need for service and the reasons for having it provided have been established. When an RFQ has been issued, the Request for Proposals will be sent to agencies selected in the RFQ process.

3. Selection of the successful contractor will be made on the basis of information provided in the RFP's and the selection of the contractor to provide these services will be at the discretion of the Department. Contract negotiations on the specific operational requirements for the program will follow the selection of the successful contractor.

V. CLOSING:

Questions concerning this policy shall be directed to the Community Corrections Division Administrator.

EXHIBIT 2
DATE 1/22/97
HB

ANNUAL REPORT

JTPA in Montana's Service Delivery Areas for PY95

Exhibit # 2 - 18pg. report w/ fact sheet
The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P. O. Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775

Balance of State &
Concentrated Employment Program
Service Delivery Areas

ALTERNATIVES FOR REPEAT OFFENDERS
The DWI Facility Model

Exhibit 3
1-22-97

TABLE OF CONTENTS

INTRODUCTION

History of Federal Government Linkages.....1
History of DWI Facilities.....2

WHAT IT IS.....3

HOW DO WE KNOW IT WORKS - THE STUDIES

INHOUSE/DDMP.....4
SAMIS.....5
NHTSA.....6
CCTF.....7
DELAWARE.....10
RECIDIVISM.....11
THREE KEYS OF EFFECTIVENESS.....12

OPERATIONS OPTIONS AND NON-OPTIONS

CUSTODIAL.....15
NONCUSTODIAL.....16
PRETRIAL/POST CONVICTION.....17
WORK RELEASE/INHOUSE.....18
WHO RUNS THE OPERATION.....19
THE NON-OPTIONS.....20

WHAT DOES IT COST

BUDGET.....21
NOT-SO-OBVIOUS COSTS.....22
NIDA: TREATMENT VS. INCARCERATION.....23

HOW TO PULL IT TOGETHER AND KEEP IT TOGETHER

SUCCESS/FAILURE.....24
THE GOOSE STORY.....26

Exhibit # 3 - 26 page publication

The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P. O. Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775

HOUSE OF REPRESENTATIVES

House Select COMMITTEE ON CORRECTIONS

ROLL CALL DATE 1/22/97

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ernest Bergsagel, Chairman	✓		
Rep. "Red" Menahan, Vice Chairman	✓		
Rep. Gary Feland	✓		
Rep. Royal Johnson	✓		
Rep. Betty Lou Kasten	✓		
Rep. Matt McCann	✓		
Rep. Dan McGee	✓		
Rep. Steve Vick	✓		
Rep. Diann Wyatt	✓		

MONTANA HOUSE OF REPRESENTATIVES

[redacted]

DATE 1/22/97

BILL NO. HB 125 SPONSOR(S) GRADY

TYPE

PROPONENT (P) [redacted] INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Larry Brown	6260 Head D. Helena MT 59602	Sec of State
P O I	Mike Ferriter	Dept. of Corr.	
P O I	Sue Wilkins	304 W. Broadway Missoula	Missoula Correctional Services
P O I	DAVID ARMSTRONG	309 1ST AV. NORTH	ALTERNATIVES, INC.
P O I	Dave Hoffman		
P O I			
P O I			
P O I	JTPA Representative		
P O I	Pam Higgins	HRDC DISTRICT 500 1st Ave. No Lewistown MT	JTPA
P O I	Jan Denhart	521 W. Main St. Lewistown MT	JTPA
P O I	Kathy Bar[illegible]	406 W. 4th Lewistown	JTPA
P O I	Sue Mora		JTPA
P O I			
P O I			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MONTANA HOUSE OF REPRESENTATIVES

[redacted]

DATE 1/22/97

~~BILL~~ NO. [redacted] Rimrock Foundation SPONSOR(S) _____

Presentation

TYPE

[redacted] PROPONENT (P) [redacted] INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
POI	[redacted]	TBlg	Rimrock Foundation
POI	[redacted]		Maryland DWI Services Inc.
POI			
POI			
POI			
POI			
POI			
POI			
POI			
POI			
POI			
POI			
POI			
POI			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MOTION/VOTE: REP. WYATT MOVED STRIKE LINES 1 & 2 ON PAGE 3, SECTION H. Motion carried 7-0 with REP. McGEE and SEN. CHRISTIAENS not voting.
{Tape: 1; Side: A; Approx. Time Count: 12.2.}

MOTION: REP. VICK MOVED INCLUDE LANGUAGE "SENTENCING MUST EMPHASIZE RESTITUTION BY THE OFFENDER TO THE VICTIM" in the sentencing practices section.
{Tape: 1; Side: A; Approx. Time Count: 12.7.}

DISCUSSION

VOTE: Motion carried 6-1 with REP. KASTEN voting no and REP. McGEE and SEN. CHRISTIAENS not voting.
{Tape: 1; Side: A; Approx. Time Count: 15.3.}

MOTION/VOTE: REP. VICK MOVED LANGUAGE BE CHANGED FROM "MUST" TO "SHOULD" line 26. (As it applies to incarceration in lieu of imposition of the death penalty.) Motion carried 7-0 with REP. McGEE and SEN. CHRISTIAENS not voting.
{Tape: 1; Side: A; Approx. Time Count: 18.8.}

MOTION/VOTE: REP. R. JOHNSON MOVED HB 102 DO PASS AS AMENDED. Motion carried 7-0 with REP. McGEE and SEN. CHRISTIAENS not voting.

HB 125
MOTION: REP. WYATT MOVED HB 125 DO PASS. **EXHIBIT 2**
{Tape: 1; Side: A; Approx. Time Count: 19.9.}

DISCUSSION OF PROPOSED AMENDMENT FROM MISSOULA CORRECTIONAL SERVICES, INC (Sue Wilkins) - Clarification, Susan Fox.

DISCUSSION OF SEPARATION OF POWERS, CONTRACT REVIEW AND CONTRACT LENGTH.

MOTION: REP. McCANN MOVED AN AMENDMENT WHICH WOULD ALLOW FOR LEGISLATIVE REVIEW OF CONTRACTS OVER TEN YEARS WHICH WOULD BE HANDLED BY THE LEGISLATIVE AUDITOR'S OFFICE.
{Tape: 1; Side: B; Approx. Time Count: 4.7.}

DISCUSSION

VOTE: Motion carried 4-3 with REP. WYATT, REP. MENAHAN and REP. KASTEN voting no and REP. McGEE and SEN. CHRISTIAENS not voting.
{Tape: 1; Side: B; Approx. Time Count: 9.0.}

MOTION: REP. McCANN MOVED TO STRIKE AMENDMENT #5, AND TO APPROVE AMENDMENTS 1,2,3,4 and 6 (Exhibit 2).

DISCUSSION

VOTE: Motion carried 8-0 with SEN. CHRISTIAENS not voting.
{Tape: 1; Side: B; Approx. Time Count: 13.3.}

FURTHER DISCUSSION OF AMENDMENT #5.

MOTION: REP. VICK MOVED TO CHANGE LANGUAGE TO "SUPERVISING AUTHORITY." Motion withdrawn
{Tape: 1; Side: B; Approx. Time Count: 23.2.}

MOTION/VOTE: REP. McCANN MOVED HB 125 DO PASS AS AMENDED. Motion carried 8-1 with REP. WYATT voting no, SEN. SWYSGOOD voting yes by proxy and SEN. CHRISTIAENS not voting.

HB 136 **EXHIBIT 3**
DISCUSSION OF AMENDMENTS

CHAIRMAN BERGSAGEL INDICATED HE WOULD PREFER NOT TO ACT ON THIS BILL UNTIL REP. JOHNSON HAS HAD A CHANCE TO REVIEW THE AMENDMENTS.
{Tape: 1; Side: B; Approx. Time Count: 36.4.}

HB 272
MOTION: REP. McGEE MOVED HB 272 DO PASS.
{Tape: 1; Side: B; Approx. Time Count: 37.8.}

DISCUSSION

MOTION: REP. VICK MOVED PAGE 4 LINE 2 BE AMENDED TO INDICATE THE CIRCUMSTANCES UNDER WHICH RESTITUTION AS PRIMARY SENTENCE SHOULD APPLY.
{Tape: 2; Side: A; Approx. Time Count: 8.0.}

DISCUSSION

VOTE: Motion carried 10-0.

MOTION/VOTE: REP. McGEE MOVED HB 272 DO PASS AS AMENDED. Motion failed 5-5 with REP. JOHNSON, REP. VICK, REP. KASTEN and SEN. CHRISTIAENS voting no and SEN. SWYSGOOD voting no by proxy.
{Tape: 2; Side: A; Approx. Time Count: 10.2.}

HB 279
MOTION: REP. JOHNSON MOVED HB 279 DO PASS.
{Tape: 2; Side: A; Approx. Time Count: 11.4.}

DISCUSSION

VOTE: Motion failed 4-6 with REP. JOHNSON, REP. KASTEN, REP. McGEE, REP. McCANN, REP. VICK voting no and SEN. SWYSGOOD voting no by proxy.
{Tape: 2; Side: A; Approx. Time Count: 19.8.}

MOTION: REP. JOHNSON MOVED HB 279 BE TABLED. Motion carried 8-2 with REP. MENAHAN and SEN. CHRISTIAENS voting no.
{Tape: 2; Side: A; Approx. Time Count: 20.4.}

EXHIBIT 2
DATE 3/8/97
HB 125

Amendments to House Bill No. 125
First Reading Copy

For the Committee on Corrections

Prepared by Susan B. Fox
January 24, 1997

1. Page 1, line 15.
Following: "relating to"
Insert: "the future building or expanding of new"

2. Page 1.
Following: line 22
Insert: "The rules are not intended to address plans that have been approved by a community for a new or expanded prerelease facility on [the effective date of this act]."

3. Page 9, line 15.
Strike: "department of corrections"
Insert: "supervising authority"

4. Page 9, line 16.
Strike: "department"
Insert: "supervising authority"

5. Page 12, line 21.
Strike: "10"
Insert: "20"

6. Page 19.
Following: line 1
Insert: "

NEW SECTION. **Section 16. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

HOUSE STANDING COMMITTEE REPORT

March 10, 1997

Mr. Speaker: We, the committee on **Select Committee on Corrections** report that **House Bill 125** (first reading copy -- white) **do pass as amended.**

Signed: _____
Ernest Bergsagel, Chair

And, that such amendments read:

1. Page 1, line 15.
Following: "relating to"
Insert: "the future building or expanding of new"

2. Page 1.
Following: line 22
Insert: "The rules are not intended to address plans that have been approved by a community for a new or expanded prerelease facility on [the effective date of this act]."

3. Page 9, line 15.
Strike: "department of corrections"
Insert: "supervising authority"

4. Page 9, line 16.
Strike: "department"
Insert: "supervising authority"

5. Page 12, line 22.
Following: "."
Insert: "Prior to entering into a contract for a period of 10 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or

3-10-97

Committee Vote:
Yes 8, No 1.

comments prior to entering into the contract."

6. Page 19.
Following: line 1
Insert: "
NEW SECTION. **Section 16. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

-END-

HOUSE OF REPRESENTATIVES

House Select COMMITTEE ON CORRECTIONS

ROLL CALL DATE 3/8/97

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ernest Bergsagel, Chairman	✓		
Rep. "Red" Menahan, Vice Chairman	✓		
Rep. Gary Feland			✓
Rep. Royal Johnson	✓		
Rep. Betty Lou Kasten	✓		
Rep. Matt McCann	✓		
Rep. Dan McGee	✓ 11:00		
Rep. Steve Vick	✓		
Rep. Diana Wyatt	✓		
Sen. Christiaens	✓ 11:45		
Sen Hage			✓
Sen Thompson			✓

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on March 19, 1997, at 8:05 a.m., in Room 108.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. James H. "Jim" Burnett (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Eve Franklin (D)
Sen. Loren Jenkins (R)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Miller (R)
Sen. Arnie A. Mohl (R)
Sen. Linda J. Nelson (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Division
Sharon Cummings, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 102, 3/14/97; HB 125, 3/14/97; HB 405, 3/14/97
Executive Action: HB 100, BCCAA; HB 208, Tabled; HB 559, Failed

HEARING ON HB 125

Sponsor: **REP. ED GRADY, HD 55, CANYON CREEK**

Proponents: **Mike Ferriter, Department of Correction**

Diana Leibinger-Koch, Department of Correction

Opponents: **Larry Brown, Helena**

Opening Statement by Sponsor:

REP. ED GRADY, HD 55, CANYON CREEK HB 125 does a number of different things. It differentiates between community corrections facilities and pre-release centers. With the amendment to sentencing statute, a judge may sentence an offender directly to either facility. It creates a 5 year maximum sentence if the Department of Corrections (DOC) commitment is to be an alternative to prison. It also makes the community corrections act easier for communities or tribes to utilize. Since these are strictly community facilities, the community or tribe does not need to consult with the DOC for planning, siting or implementation of a facility, nor are they accountable to the department for running the facility. This legislation eliminates the prohibition against incarceration of violent offenders in these facilities. HB 125 widens the definition of offender to include misdemeanor or felony offenders. The bill changes the composition of the community corrections board from 9 to 3-7 members. It is left to each community or tribe to decide which offenders their facility will handle and how they want to handle them. It makes the home arrest statute more user friendly, the court must refer the offender petition for home arrest to the supervisor, usually the probation department, for exception or rejection. If the supervisor accepts the offender for home arrest, the court then makes the decision on the suitability of the petitioner for home arrest. It also changes and clarifies DOC policies concerning pre-release centers. The department is here to present more facts on this bill and answer questions.

{Tape: 1; Side: A; Approx. Time Count: 8:09; Comments: None.}

Proponents' Testimony:

Mike Ferriter, Department of Correction HB 125 is an attempt to clarify a variety of issues that the department has struggled with over the last several years. One of the key issues is clarification of the definition of pre-release versus community corrections facilities. The bill also clarifies the length of DOC commitments, it gives judges the option to directly sentence offenders to the department. The department then has the flexibility to make a placement with a 5 year limit. I'd appreciate your support of HB 125.

Diana Leibinger-Koch, Department of Correction This bill goes a long way toward clarifying a number of things. **(EXHIBIT #1)** handed out, this explains the differences, clarifications and purposes of this bill. Currently, there is no clarification in statute about the difference between a pre-release center and a community corrections facility. This bill takes the DOC out of

the community corrections process, the community can do what they want. The pre-release center is an entity from DOC, this legislation proposes enacting siting criteria in administrative rules before another pre-release center is sited. Currently, judges can sentence an offender to DOC for 100 years, this legislation would make that limit 5 years which makes meaningful alternatives to a prison sentence. This also reorganizes the home arrest statute, it doesn't change policies or procedures. We urge your support of HB 125.

{Tape: 1; Side: A; Approx. Time Count: 8:18; Comments: None.}

Opponents' Testimony:

Larry Brown, Helena My family and I were in the middle of the mess in the Helena valley this past year. We spent over $7,000, which the department still owes us, to prove they were violating the law. There has been an attempt to address this. I hope you can hold the department to what they say this bill will do, then this might work. I have a lot of problems with what this bill does not address. It doesn't go into the detail that needs to be addressed on how pre-release or community corrections facilities are sited in people's neighborhoods. These programs don't work as well as they are designed to work, there is room for improvement. This bill takes a portion of the community correction board out of the process. They have lowered the number of public people on these boards to 1. The department wants to divorce themselves from responsibility, which this bill does, leaving the problem and responsibility on the community, community corrections board, county commissioners and local law enforcement agency. I believe there needs to be some work done on that section of the law. I think it is important to dot all the i's and cross all the t's on these corrections bills. The department or non-profit organizations will find a way to get around it if it isn't in black and white. The siting criteria is very vague. Part of the criteria is how fast the department can spend the money and how fast they can get these sites established as once a facility is sited it will be very difficult to change it. If you follow the money, you will follow the problems. I hope you give careful consideration to this bill, possibly to the extent that an interim committee be established to address this pre-release, community corrections issue. The DOC needs to be held accountable for how they administer this program.

{Tape: 1; Side: A; Approx. Time Count: 8:26; Comments: None.}

Questions From Committee Members and Responses:

SEN. CHRIS CHRISTIAENS Why is there a change from 9 members to 3-7 on the community corrections board? **Mr. Ferriter** The bill intends to clarify that the DOC's role is in pre-release and not in community corrections facilities. The community corrections business is a local entity. It was our impression that the local communities should have some flexibility on how many people they

want on the board. We specify who the key members need to be on the board.

SEN. CHRISTIAENS How many communities have community corrections boards? **Mr. Ferriter** Bozeman and Helena.

SEN. CHRISTIAENS How would the state work in siting pre-release centers on tribal land? **Mr. Ferriter** The tribe or local community would be on their own, the state would not be involved with siting on tribal lands. We could be involved if they sited a facility on the reservation and then came to the department with available bed space.

SEN. DALE MAHLUM Can you put this in any community you want or does the community have a say in this decision? **Mr. Ferriter** HB 125 gives the department rule making authority to establish a siting process for pre-release centers. This policy requires the support of local authorities and public hearings. We can't do this in any community, we need their support.

SEN. MAHLUM What if you find a perfect site and the community says they don't want the facility, can you force yourself into that community? **Mr. Ferriter** No, we have no intentions of doing that. We had a very difficult time in Helena and we did not force our way in. Corrections is a community problem but if the community is not interested in having that program we won't do business there. We feel we are a part of the community with the 4 pre-release centers we have now.

SEN. LARRY BAER I presume you will not try to place a pre-release center in a place that is restricted by covenants and zoning or in a community that does not want a pre-release center. Would you be willing to have an amendment to this bill that will clarify your position on this? **Mr. Ferriter** Yes. **SEN. BAER** I appreciate your desire to have the rule making authority but I would like the mechanism in the bill so you cannot exceed certain criteria by your rule making authority.

SEN. TOM KEATING The pre-release center used to be a halfway house for a person coming out of prison. We had one in Billings, the Alpha House, and there was a high rate of recidivism from that pre-release center. This talks about sentencing prisoners directly to pre-release centers instead of to prison, is there a difference in the policies and make-up of a pre-release center? **Mr. Ferriter** Currently, through the Community Corrections Act, offenders are allowed to be sentenced directly to pre-release centers. The make-up is very similar to the original make-up of the Alpha House. The laws have changed, the department has the authority to place that offender where we feel they may best be served. We are serving 3 or 4 populations, the traditional method, DOC offenders, judges and a person who has violated their parole. We have a variety of different types of offenders in pre-release now and it seems to work fine.

SEN. KEATING When you say a 5 year sentence, are you talking about limiting sentences to 5 years depending on the crime? What is your intention? **Mr. Ferriter** If a judge chooses to make the decision to commit an offender to DOC, they generally do that because they are not 100% sure this offender needs to be in prison. They know this offender needs services, such as pre-release, boot camp or an intensive supervision program with an electronic monitor. We are comfortable with that commitment only up to 5 years. If the judge feels that offender needs to be sentenced to longer that 5 years the option would be restricted to the traditional method of being committed to the Montana State Prison.

SEN. KEATING This bill states a pre-release contract would be submitted to the legislative auditor and reviewed by the audit committee to make recommendations. What makes you think the audit committee knows any more than anyone else about pre-release contracts? **Mr. Ferriter** That was not in the original bill, that was amended by the Select Committee on Corrections. We've entered into 10 year contracts with pre-release centers but we can only commit to 2 years at a time based on legislative funding. The select committee felt it would be a good idea for the fiscal auditor to review that 10 year contract prior to the department entering into it.

SEN. MIGNON WATERMAN Is the department committed to paying the $7,000 cost **Mr. Brown** referred to in testimony? **Mr. Ferriter** We have not made the decision to pay the $7,000. I'm not sure if they have submitted a claim. **SEN. WATERMAN** What about the Upcountry Inn or the pre-release center in Butte, have we paid them anything or made a commitment to pay them or have they requested it? **Mr. Ferriter** We have not had any request or bill from the people at the Upcountry Inn. We assisted the Butte pre-release center in earnest money, we provided some of the money they lost, I believe the total was $10,000. I will get that information for the committee.

SEN. MIKE TAYLOR What is the cost per bed in a pre-release center? **Mr. Ferriter** It is just under $37 per day. The prison averages $44 per day.

SEN. TAYLOR There was a charge about a siting company in the opponent's testimony that said they didn't meet the requirements for the siting and are now being considered for a regional jail. Would you like to comment on that? **Mr. Ferriter** We did a request for proposal (RFP) to site 163 pre-release beds. Through the RFP process, a corporation in Butte submitted a bid. We developed a committee and scored the RFP's. The Butte contractor was selected as it gained the highest number of points. The contract was never formally awarded because the siting criteria was never finalized.

SEN. TOM BECK I believe the department opposed **SEN. LYNCH'S** bill saying putting this to the vote of the people would be good

community support. How would you feel if we amended this to put it to the vote? **Mr. Ferriter** I'm not sure we opposed that bill, we struggled with SB 37 in that it encompassed existing facilities. The department feels the siting criteria being handed out now **(EXHIBIT #2)** is a better process in that we would specify site and the people in that area would have involvement on whether the facility should be in their specific area. One of the things that concerns me about a vote is if it is in the western side of the community maybe the rest of the community would vote for it. We know the public needs to be involved but I'm not convinced a vote is the best way to deal with this.

SEN. BECK Can you tell me the reason for the saving clause at the end of the bill? Is there some penalties or something going on that we don't know about? **Susan Fox, Legislative Service Division** That amendment was added in the House Select Committee on Corrections at the request of the Missoula pre-release center. They recently held a vote on a bond issue relating to regional correctional facilities that included the pre-release center concept. They were worried that rules adopted by the department would require them to go back and get a second vote as they felt the previous vote was sufficient. If any penalties have been or would be incurred by the department, the saving clause says this bill does not affect that so they are still responsible for anything that happened before that date.

{Tape: 1; Side: B; Approx. Time Count: 8:45; Comments: None.}

SEN. BAER I would like more specifics on the problem you had involving the establishment of a pre-release center in your residential neighborhood. **Mr. Brown** When we found out that DOC was proposing a pre-release facility, we investigated the situation and found out the department had problems siting in the City of Helena and decided to move to another location. West of Helena is a section that is not zoned. At that time Director Day told us he could site a facility anywhere he wanted to in the state. We found there was a lack of definition between community corrections and pre-release. We hear this bill reorganizes the statute, I'm fearful that it will continue to be business as usual. We had 2-3 public meetings, the department said they were going forward, they developed criteria and ignored public input. The criteria and rules they developed were to cover the mistakes they had made in contracting and siting criteria.

SEN. MAHLUM What happened? **Mr. Brown** We hired an attorney and the department backed off because they were going to be sued. There was a Supreme Court decision in August that says a community corrections facility and pre-release center are one and the same.

SEN. LOREN JENKINS On page 5, line 26, what is Title 45? **Ms. Leibinger-Koch** Title 45 involves criminal statute. **SEN. JENKINS** I'm carrying a bill that puts sex offenders under the DOC. If this were passed that sentence limit would be 5 years. **Ms.**

Leibinger-Koch Your bill would not conflict with what is being proposed here. This bill talks about when a judge sentences someone to the DOC for sentence. The judge can still sentence someone to MSP for any number of years. Sex offenders could have something else put on as criteria and have to undergo treatment.

SEN. JENKINS Why was the change in local correction boards put in this bill? **Ms. Fox** I believe that was to allow the community to choose how many members they wanted on the board.

SEN. EVE FRANKLIN Please give an example of how a community corrections facility is different from a pre-release center. **Mr. Ferriter** Through the process in Helena we learned a great deal about community corrections facilities. It was our understanding that a pre-release center was a community corrections facility. The attorney for the community corrections board in Helena informed us that the two facilities are not the same and the board didn't feel they had jurisdiction to rule on this issue. DOC wants to be in the pre-release business dealing with felons coming from prison, sentenced to the pre-release center or committed to DOC. We think community corrections facilities are a great idea for local jurisdictions.

SEN. KEATING You are repealing the good-time section, is there not going to be good-time in pre-release centers? **Dave Ohler, DOC** Effective January 31, 1997, the last legislature eliminated good-time. This is clean-up in the Community Corrections Act.

{Tape: 1; Side: B; Approx. Time Count: 9:00; Comments: None.}

Closing by Sponsor:

REP. GRADY I'm carrying this bill because the Helena issue showed us legislation is needed. I like the way this bill involves the public throughout the process. We have set up a working group consisting of city, county, legislators and the public to see if we can place another one in Helena. I think every community has a responsibility to these non-violent offenders. Pre-release centers are working fine in Great Falls, Billings, Missoula, Butte and could work in Helena, but the process has to be handled properly. Our group has been told we can be part of the rule making, I think this has been turned around and the department is making a real effort. There will not be one in Helena unless the Helena people accept it. **Mr. Brown** did not come to me once, since this bill was heard in the Select Committee, to request changes. He did not go to the department with suggestions.

{Tape: 1; Side: B; Approx. Time Count: 9:04; Comments: None.}

HEARING ON HB 102

Sponsor: **REP. HALEY BEAUDRY, HD 35, BUTTE**

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 1
DATE 2/19/97
BILL NO. HB125

Department of Corrections

P.O. Box 201301
Helena, MT 59620
(406) 444-9593
Fax: (406) 444-4920

INFORMATION FOR THE SENATE FINANCE AND CLAIMS COMMITTEE ABOUT House Bill 125; COMMUNITY CORRECTIONS

I. PURPOSES of this bill:

A. To differentiate between community corrections facilities and pre-release centers.

1. There are many references in the statutes to "community corrections facilities," but, only a few references to pre-release centers. Unfortunately, everyone from attorneys and judges to lay persons perceive "community corrections facility" and "pre-release center" are interchangeable, and treat them as interchangeable. They are not. A community corrections facility is something created by and for an individual community pursuant to the community corrections act, M.C.A. § 53-30-301 *et seq.* A pre-release center is a department of corrections entity pursuant to M.C.A. § 53-1-202 which the department administers. We need to clearly differentiate between the two, and specify how they should be treated differently by department of corrections, judges, offenders, and attorneys.

2. Section 1 of the proposed statute clarifies that community correction facilities and pre-release centers are two different entities by allowing judges to sentence offenders to either facility. With the amendments to the sentencing statute, § 46-18-201, a judge may sentence an offender directly to a pre-release center or a community corrections facility. Page 2, line 13-15. (Same language on p. 3, line 6; and p. 5, line 5). Now the statute only allows

judges to sentence an offender to a "community corrections facility or program." Judges have sentenced offenders to pre-release with this statute, but it is not clear if these sentences conform to the present statute.

B. To make a sentence to the Department of Corrections meaningful as an alternative to a Montana State Prison sentence.

1. Presently, there is no limit on the number of years to which a district court judge can sentence an offender to the department. However, if the judge sentences an offender to DOC for anything beyond 5-years, the department generally must choose to place the offender at a state prison. The department can usually only place offenders in alternate facilities like pre-release centers or the boot camp or alternative programs like intensive supervision if the offender's sentence is 5 years or less because these programs are designed to serve offenders for less than 2 years. A 40-year term to MSP may seem much harsher and longer than a 40-year term to department of corrections. Yet, the offender goes to prison on either sentence, and spends exactly the same amount of time in prison on either sentence.

2. This legislation creates a 5-year maximum sentence to DOC. page 3, line 2; and page 5, line 24. If a DOC commitment is to mean an alternative to prison, the Department and courts need this limit on DOC sentences.

C. To make the Community Corrections Act easier for communities or tribes to utilize.

1. Sections 6-14 of the bill which begin on page 12 amend the Community Corrections Act. With the amendments the bill strengthens the legislature's purpose for creating this act in 1991: to enable communities or tribes to establish facilities for offenders in the local

area, as the community or tribe deems appropriate. Communities or tribes can create these facilities and operate them by their members for their members.

2. The community corrections act no longer refers to the Department of Corrections. The community or tribe no longer needs to contract with the department of corrections. page 17, lines 15-20. Since these are strictly community facilities, the community or tribe does not need to consult with the department for planning, siting, or implementation of a facility, nor is it accountable to the department. page 15, line 17; page 16, lines 3-6 and 24-27. The statute allows judges to sentence offenders directly to any community or tribal facility. page 17, lines 8-11. The present statute only allows judges to sentence offenders to a community facility if it is operated in conjunction with the department. page 17, lines 15-20.

3. This act allows communities more flexibility and gives communities more control over the way it desires to deal with offenders.

a. The legislation eliminates the prohibition against incarcerating certain offenders in these facilities. page 13, lines 1 and 2. page 14, lines 13 and 14. It is left to each community or tribe to decide which offenders their facility will handle.

b. The bill widens the definition of offender to include misdemeanor offenders. page 14, lines 13 and 14. The community can utilize these facilities to incarcerate misdemeanor or felony offenders.

c. The bill changes the composition of a community corrections board from 9 to as few as 3 or as many as 7 members. page 14, line 23. Again, the community can do what it feels best for its particular circumstances.

D. To make the home arrest statutes more user-friendly.

1. Home arrest may be a viable option for all or part of some offenders' sentences. Home arrest can enable an offender to stay in his or her home, keep his or her job or continue in an educational or treatment program and pay for all the offender's expenses. Or home arrest can enable an inmate to make the transition from prison while the probation department monitors the offender regularly. Unfortunately judges and attorneys very seldomly use this tool in the district courts of the state now.

2. The legislature enacted the home arrest statute in 1991. This part of the bill reorganizes the existing statute to allow persons to more easily comply with its requirements. The bill drafters only changed one of the statute's original concepts or provisions.

a. The statute requires someone who wants to utilize home arrest to petition the judge. Section 3 of the bill which begins on page 8 clarifies the contents of the petition and the action which the court should take with the petition. The only change this bill proposes is that the court must refer the offender's petition to the supervising entity. page 9, line 15. The supervising entity may accept or reject the offender for supervision. If the supervising entity rejects the offender, this bill states the court must dismiss the petition. page 9, line 16 and 17. This provision is necessary so the court does not order the supervising entity to supervise someone the supervisor deems an unacceptable risk. This is a pre-screening only, not a final decision about the appropriateness of home arrest for a particular offender. If the supervisor accepts the offender for home arrest, the court then still must make a decision regarding the suitability of the petitioner for home arrest. If the court finds the offender is a suitable candidate, then the court approves the offender for home arrest. If the court, for any reason does not want the petitioner on home arrest, the court may reject the petition. page 4, line 14.

b. Authorities can utilize home arrest for misdemeanor or felony offenders. Offenders on home arrest are supervised. Felony offenders are supervised by probation officers. Misdemeanor offenders are supervised by some other court- approved entity.

3. This bill defines home arrest as a different program than ISP, it better defines a monitoring device, and allows an offender to utilize an ISP monitoring device if one is available. page 7, lines 21-27. This bill also clarifies the procedure if an offender violates home arrest. page 10, line 34-39.

4. In Section 3 on Page 9, the bill strikes the language, "Fees for supervision or equipment usage must be paid directly to the clerk of the sentencing court and must be distributed by the clerk to the supervising authority." The ability to collect fees is in Section 3, page 10, line 20. By omitting the first reference on page 9, we enable the offender to make his or her own arrangements with an equipment company without involving the supervising authority. The supervising authority can collect the fees in accordance with their usual policies and procedures.

E. To change and clarify some department policies concerning pre-release centers.

1. In §5 of the bill the department must adopt rules for siting a new prerelease or expanding an existing prerelease center. The Department will notify the public if it is considering a pre-release center in a community, it will provide an appropriate amount of time for public comment, an appropriate amount of notice for public hearing, and a procedure pre-approved by the public to determine the appropriateness of the contemplated location of a new or expanded center. The entire siting process will be accomplished according to written

procedures. The Department will enact these rules according to all necessary public notice and comment requirements.[1]

2. This Section (5) of the bill also includes a provision which will allow parole officers to place parole violators in pre-release prior to the offender's appearance before the parole board. page 11, line 20. The board can send the violator back to prison if it does not agree with the parole officer's decision to place the offender in a pre-release according to this section.

3. Page 11, line 20 also codifies in policy the change proposed in 46-18-201 which will allow judges to sentence offenders directly to pre-release.

4. This section differentiates clearly between community corrections facilities and pre-release centers by deleting the words, "community based" from page 11, line 18 and line 24. The bill deletes the language on page 11, line 10 which reads, "rules adopted by the department may not amend or alter the statutory powers and duties of the state board of pardons and parole" because the language is redundant; the department cannot adopt any rules which would alter or amend statutes.

END

[1] Mike Ferriter has presented the committee with a copy of the contemplated siting criteria the department will propose in administrative rules.

DEPARTMENT OF CORRECTIONS
POLICIES AND PROCEDURES

SENATE JUSTICE AND CLAIMS
EXHIBIT NO. 2
DATE 3/19/97
BILL NO. HB 125

Policy No.: DOC 1.1.11	Subject: SITING OF COMMUNITY-BASED FACILITIES
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 10
Section 1: General Administration	Revision Date:
Signature:	Effective Date:

I. POLICY:

It is the policy of the Department of Corrections to establish community support when siting a community-based facility by developing procedures which take into consideration the needs and concerns of the community.

II. AUTHORITY:

53-1-203, MCA. Powers and Duties of the Department

III. DEFINITIONS:

Community-based facility means a community-based adult or juvenile residential program which offers the offender room and board, supervision, counseling and treatment such as a Pre-Release Center or a Juvenile Transition Center.

Department, as defined in this policy, means the Community Corrections Division of the Department of Corrections.

IV. PROCEDURES:

A. Introduction:

1. Community-based facilities function as components of the Montana correctional system and are typically located in the major population areas of the state. These programs are designed to accomplish the following:

- Provide an alternative to the direct release of offenders from Montana correctional facilities.
- Allow offenders the chance to adjust to the community in a structured setting.

2. Community-based facilities also provide community transitional services in lieu of prison for adult male and female offenders who:
   - have been committed to the custody of the Department of Corrections
   - are approaching release from prison
   - have been placed on probation, but require more structured supervision, training and counseling, or
   - are parole violators requiring less restriction.

B. Preliminary Fact Finding

1. Before proceeding with plans to site a community-based facility, the Department must develop a written rationale for selecting a community, including demographic and statistical data, that supports the need for a facility in the proposed locality. Initial contact should be with key officials in the proposed area to discuss the potential of the proposed siting.

2. If there has been a preliminary determination that there is a need for a program in a community, the following officials, and others to be identified, must be contacted to assess their interest in the proposed facility:

- local Legislators	- Mayor
- local Law Enforcement	- District Judge
- County Commissioners	- City Commissioners
- Chief Public Defender	- County Attorney
- Community Corrections Board, if applicable	-others to be identified
- local PSC Advisory Council members	

3. If there is a determination that local officials are interested in a community-based facility, the Community Corrections Division Administrator will inform the media of the proposed interest. The media should receive the following information:
   a. Rationale for considering this geographic area
   b. Statistics that demonstrate the need for a facility in the proposed locality
   c. The role of the community in the process
   d. Proposed plan of action.

4. The Department will meet with city officials and county commissioners to assess their interest in forming a working committee to secure community support.

C. **Development of a Formal Siting Program**

If city and county officials support a working committee, a working group will be established. Committee members should include local citizens appointed by county and/or city commissioners, Community Corrections Board members, if applicable, in addition to other local officials. The Committee should be comprised of no more than 10-15 members.

A formal siting program will be developed by the Committee with assistance from the Department. Timelines for completion of the siting program and tasks involved should be established and mutually agreed upon by the Committee and the Department. The role of the Committee, with support from the Department, should be as follows:

1. Assessing and Procuring **Community Support.** The Committee should schedule a minimum of three public meetings to:
   a. [illegible] meeting - Present the proposal to the public and explore potential siting [illegible]
   b. [illegible] meeting - Solicit additional feedback from local citizens and officials.

c. Third meeting - Discuss the formal siting criteria and the Committee's decision on the proposed site, and if approved, explain the Request for Qualifications (RFQ) and/or Request for Proposals (RFP).

2. Informing the Community. A critical component of any siting effort is to dispel misconceptions about Community Corrections programs and the offenders they serve. It is important that the Committee and the Community Corrections Division help local decision makers and citizens to understand that community corrections programs help communities by reducing many of the costly problems associated with offender crimes and that the programs enable offenders to return to productive lives. This may be accomplished via public information meetings and articles submitted to the local media.

3. Selecting a Site. One of the most important decisions the Committee and Department will make is determining where to site a Pre-Release Center. For that reason, the Committee and the Department must consider the following formal siting criteria to promote public participation and respond to the public's concerns:

a. Determination of level of support from local government authorities.

1) The Department will contract with a professional consulting firm to survey the following:

- Local law enforcement - Mayor/City Manager
- County Attorney - Chief Public Defender
- District Court Judges - County Commissioners
- City council, if applicable
- Local DOC Advisory Council members
- State Legislators who represent any portion of the county of the proposed site

2) The survey will utilize an appropriate method of measurement and must include, at a minimum, the following questions:

a) Do you believe there should be a Community Corrections Program in _____County?

b) Do you believe the Community Corrections Program needs to be within the city limits?

3) All respondents will be provided with an outline of the goals of the survey in order to assist them to gain an understanding of the level of support for a Community Corrections Program in the community.

4) Standard to meet criteria: Should have the support of a majority of the County Commissioners and the City Council, a majority of State Senators and Representatives who serve the district in which the proposed site is located, and a majority of the other public officials mentioned above.

b. Determination of level of support of area residents

1) A minimum of 200 - 500 residents of the community/area, or a number to be determined by the consulting firm, will be surveyed. The Department will contract with a professional consulting firm to survey adults who have resided for a minimum of one year within a four-mile radius of the proposed site.

2) The survey will utilize an appropriate method of measurement. The survey must include, but will not be limited to, the following question:

a) Would you find it acceptable to site a Community Corrections Program at _____ site?

3) All respondents will be provided with an explanation of the survey goals.

4) Standard to meet criteria: Should have the support of a simple majority of the respondents.

c. Emergency medical and fire protection. Twenty-four hour emergency medical and fire protection services must be available. Fire protection must be available by a professional fire protection service. Appropriate fire protection services and response time will be determined by the State Fire Marshall or the authority having jurisdiction. Medical transportation services must be available from a licensed ambulance service.

d. Law enforcement and security. The site must be accessible to a certified law enforcement agency capable of emergency response within fifteen (15) minutes. An acceptable security plan must be in place to include specific procedures that describe:

1) A back-up plan in the event law enforcement response may be delayed
2) Conducting searches of residents and all areas of the facility in order to control contraband and locate missing or stolen property
3) Prevention, detection and pursuit of absconders
4) Movement of residents into and out of the facility
5) A system of accounting for the residents' whereabouts at all times
6) Transportation of residents being returned to custody

e. Compliance with ordinances and utilities. The site must comply with all applicable laws, codes, ordinances and acts.

1) The following must be strictly adhered to:
   a) Zoning: must have approval of local, county and/or state zoning officials.
   b) Building: must meet codes for fire, safety, electrical, and plumbing.
   c) Environmental: must comply with all environmental laws and regulations.

d) Disabilities: must comply with Americans with Disabilities Act.

e) Sanitation and water: must comply with all laws and regulations including EPA standards. (Must show compliance for proposed number of beds.)

f) Flood plain and floodways: must have proof of compliance with all requirements of Title 76, Chapter 5, MCA including Part 4, Use of Flood Plains and Floodways.

2) The contractor must submit documentation of compliance with all of the above, or a written plan naming deficiencies and a plan for correcting them must be approved by the Department.

3) The site plan must show access to reliable utilities.

a) Contractor must submit documentation that the contemplated use of utilities will not negatively impact surrounding community.

b) Contractor must submit a plan for alternative phone and power in case of prolonged outages.

f. Transportation

1) Contractor must submit a written plan for transportation of offenders to and from:

a) Treatment: mental health and chemical dependency

b) Education: basic education, Vo-Tech, College

c) Jobs

d) Commercial Ground Transportation

e) Miscellaneous: shopping, medical and dental, passes and recreation.

2) The Contractor's transportation plan must include assurances that:

a) If offenders are walking, they walk not more than one mile each way.

b) If offenders are riding bikes, not more than one mile on unpaved roadway.

c) There is some measure of responsibility placed upon the offenders for their transportation needs.

d) There is evidence of adequate snow removal plan.

3) The contractor must submit a plan for mitigating traffic problems as recommended by the City/County.

g. Availability to services. There must be available within a 20-mile radius:

1) Appropriate mental health and chemical dependency services.

2) Adequate job opportunities for the resident population as determined by the State Employment Service and/or the Department of Commerce.

3) Opportunities for basic education, GED, technical training and college courses.

4) Opportunities for volunteer and public service.

h. Property values and tax base

1) The potential impact on property values and tax base will be assessed in the local area of the proposed site. To accomplish this, the Department will contract with a certified property appraisal firm to determine the following:

a) The total annual tax loss to the county or state if the proposed property site is converted to a private, non-profit Community Corrections Program.

b) What effect, if any, the tax loss will have on property owners in the immediate area, County, and the State of Montana.

c) The potential impact on property values within the local area of the proposed site if the property is occupied by a Community Corrections Program.

d) The impact (temporary and long-term) on property values in areas surrounding existing Community Corrections Programs.

The appraisal firm must operate its business in a community located outside of the proposed community.

3) Standard: To meet this criteria, there should be no loss in property value directly attributable to a Community Corrections Program in the area as determined by the appraiser. If the appraiser determines there will be property value loss, a mitigation plan will be developed jointly by the Contractor and the Department.

D. Requests For Qualifications

1. When community support is secured and a proposed site is selected by the working committee, the Department may issue a Request for Qualifications (RFQ) requesting respondents to describe their qualifications and explain how they have provided similar services under similar conditions in the past. The RFQ must state:
   a. The need for service
   b. The specification of the service to be provided
   c. The amount of money available for the contract.

2. If an RFQ is issued, the Department will select candidates from among those that meet the established criteria for experience, skills, capacity and location.

E. Requests for Proposals

1. The Department must issue a Request for Proposals (RFP) to prospective contractors which will identify:
   a. The need for service

b. Types and quality of services sought
c. Activities to be performed
d. Target population to be served
e. Acceptable cost range
f. Administrative requirements
g. Procedures and time frames for proposal submission and review
h. Process for appeals

2. The RFP process will begin after community support has been secured, the proposed site has been selected, and the need for service and the reasons for having it provided have been established. When an RFQ has been issued, the Request for Proposals will be sent to agencies selected in the RFQ process.

3. Selection of the successful contractor will be made on the basis of information provided in the RFP's and the selection of the contractor to provide these services will be at the discretion of the Department. Contract negotiations on the specific operational requirements for the program will follow the selection of the successful contractor.

V. CLOSING:

Questions concerning this policy shall be directed to the Community Corrections Division Administrator.

DATE 3/18/97

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: HB125, HB102, HB405

< > PLEASE PRINT < >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
LARRY Brown	self	HB125		X
BETTY WADDELL	MT Assoc. of Churches	HB102		X
BETTY WADDELL	MT Assoc of Churches	HB405	X	
SHARON Ho	MT Catholic Conf	HB102		X
SHARON Ho	" " "	HB405	X	
DIANA HEINNER-KOCH	DEPT. OF CORRECTIONS	HB125	X	
DAVE OHLER	Dept of Corrections	HB102	X	
Mike Ferriter	Dept. of Corr	HB405 & 125	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.PM5

MONTANA SENATE
1997 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

ROLL CALL DATE 3/19/97

NAME	PRESENT	ABSENT	EXCUSED
SEN. CHUCK [illegible], CHAIRMAN	✓		
SEN. TOM KEATING, VICE CHAIRMAN	✓		
SEN. LARRY [illegible]	✓		
SEN. TOM BECK	✓		
SEN. JIM BURNETT	✓		
SEN. B.V. "CHRIS" CHRISTIAENS	✓		
SEN. EVE FRANKLIN	✓		
SEN. LOREN JENKINS	✓		
SEN. GREG JERGESON	✓		
SEN. J. D. LYNCH	✓		
SEN. DALE MAHLUM	✓		
SEN. KEN MILLER	✓		
SEN. ARNIE [illegible]	✓		
SEN. LINDA NELSON	✓		
SEN. MIKE [illegible]	✓		
SEN. DARYL [illegible]	✓		
SEN. MIGNON [illegible]	✓		

SEN:1997
wp.rollcall.man
CS-09